

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ORACLE USA, INC., et al.,

Plaintiffs,

v.

SAP AG, et al.,

Defendants.

No. C 07-1658 PJH

ORDER

The court has reviewed Magistrate Judge Laporte's September 17, 2009, Order granting defendants' motion for preclusion of certain damages evidence, and the papers filed in connection with the motion, as well as Oracle's objections to the Order and defendants' response thereto. The objections are **OVERRULED**.

The court agrees with defendants that the order is non-dispositive, but to the extent that any portion of the ruling might be viewed as dispositive, the court finds the order correct and well-reasoned, and adopts it in its entirety.

The court furthermore clarifies that the precluded evidence will NOT be admitted through the back door in order that "Oracle's witnesses can testify to all impacts they perceived from Defendants' unlawful activities." Nevertheless, should defendants take the position at trial that Oracle's damages are excessive, Oracle will be permitted to advise the

1 jury that it is not seeking all the damages to which it believes it is entitled, or that the court
2 has precluded it from seeking all the damages to which it believes it is entitled, or
3 something similar. The specific language of the jury instruction will be determined during
4 the pretrial process.

5
6 **IT IS SO ORDERED.**

7 Dated: November 2, 2009



PHYLLIS J. HAMILTON
United States District Judge